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*Attorneys for Defendants Miguel Flores-Nava,
Jennifer Nash, and Sheryl Foster*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FRANCIS JOHNSON,

Plaintiff,

v.

STATE OF NEVADA, et al.,

Defendants.

Case No. 2:14-cv-01425-GMN-PAL

**DEFENDANTS' SECOND MOTION TO
RESCHEDULE SETTLEMENT
CONFERENCE SETTING**

**Settlement conference scheduled for
October 21, 2016, at 9:00 a.m.**

Priority review requested

Defendants Miguel Flores-Nava, Jennifer Nash, and Sheryl Foster, by and through counsel, Adam Paul Laxalt, Nevada Attorney General, Jared M. Frost, Senior Deputy Attorney General, and Frank A. Toddre II, Deputy Attorney General, hereby submit this motion to reschedule the settlement conference currently set for October 21, 2016, at 9:00 a.m., to October 21, 2016, at 1:00 p.m. This motion is made and based on the following points and authorities, the attached declaration, the pleadings and papers on file, and any other evidence this Court deems appropriate to consider.

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MEMORANDUM OF POINTS AND AUTHORITIES

This is an inmate civil rights action filed pursuant to 42 U.S.C. section 1983. *See* (ECF No. 19) (Plaintiff's amended complaint). Plaintiff is an inmate in the lawful custody of the Nevada Department of Corrections. Plaintiff was recently transferred to Ely State Prison. *See* Exhibit 1 (Declaration of Counsel).

On July 14, 2016, the Court rescheduled the settlement conference for October 21, 2016, at 9:00 a.m., pursuant to Defendants' request. ECF No. 71. At the time of the Court's July 2016 order, Plaintiff was housed at Southern Desert Correctional Center (SDCC) in Indian Springs, Nevada. *See* Exhibit 1. Pursuant to the Court's order, the undersigned and his assistant made arrangements for Plaintiff to participate at the settlement conference via video equipment at SDCC. *Id.*

On or about October 5, 2016, while reviewing prison records in preparation for the upcoming settlement conference, the undersigned learned that Plaintiff had been transferred to Ely State Prison on or about September 21, 2016.¹ *Id.*

On October 11, 2016, the undersigned directed his assistant to cancel the SDCC video equipment reservation and also to contact Ely State Prison to determine whether arrangements could be made for Plaintiff to participate in the October 21 settlement conference. After making these inquiries, the undersigned learned that Ely State Prison will be conducting inmate tele-medicine appointments the morning of October 21 and therefore will be unable to make Plaintiff available by video at the time scheduled for the settlement conference. However, Ely State Prison has no video equipment conflicts for the afternoon of October 21.

On October 11, 2016, the undersigned confirmed that all members of the defense team are available for the afternoon of October 21.

Assuming the Court does not have a conflict, Defendants submit that there is good cause to reschedule the settlement conference from October 21, 2016, at 9:00 a.m., to

¹ A review of the docket indicates that Plaintiff did not file a change of address with the Court until October 12, 2016.

October 21, 2016, at 1:00 p.m. Plaintiff was recently transferred to Ely State Prison. That prison is unable to make Plaintiff available by video on the morning of October 21, but could arrange for Plaintiff to be available in the afternoon. It is Defendants' understanding that inmate appearance by video is the Court's preferred method for conducting settlement conferences, and Plaintiff's ability to see and interact with the participants by video may facilitate the settlement process. Therefore, Defendants respectfully request that the settlement conference be rescheduled to October 21, 2016, at 1:00 p.m. In the event that the Court is not available to conduct the settlement conference at 1:00 p.m., Defendants request that they be permitted to make Plaintiff available by telephone at 9:00 a.m.

DATED this 12th day of October, 2016.

ADAM PAUL LAXALT
Attorney General

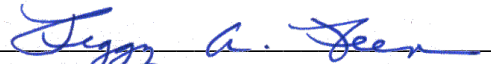
By: /s/ Jared M. Frost
JARED M. FROST (Bar No. 11132)
Senior Deputy Attorney General
FRANK A. TODDRE II (Bar No. 11474)
Deputy Attorney General

Attorneys for Defendants

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Attorney General's Office will provide **Teresa Hoskin**, Judicial Assistant, with the video conference reservation number and the telephone number at which the Plaintiff can be reached (via email at Teresa_Hoskin@nvd.uscourts.gov) at least two days prior to the settlement conference.

Dated: October 13, 2016


Peggy A. Leen
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on October 12, 2016, I electronically filed the foregoing document via this Court's electronic filing system. Parties that are registered with this Court's electronic filing system will be served electronically. For those parties not registered, service was made by depositing a copy for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada to the following:

Francis Johnson, #45800
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301
Plaintiff, Pro Se

/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General

EXHIBIT 1

Declaration of Counsel

EXHIBIT 1

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DECLARATION OF COUNSEL

I, JARED M. FROST, hereby declare, based on personal knowledge and/or information and belief, that the following assertions are true:

1. I am a Senior Deputy Attorney General employed by the Nevada Attorney General in the Litigation Division, and I make this declaration on behalf of Defendants' second motion to reschedule settlement conference setting.

2. By this motion, I am requesting that the Court reschedule the settlement conference currently set for October 21, 2016, at 9:00 a.m., to October 21, 2016, at 1:00 p.m.

3. At the time the Court issued its July 2016 order scheduling the settlement conference, Plaintiff was housed at Southern Desert Correctional Center (SDCC) in Indian Springs, Nevada. Pursuant to the Court's order scheduling a settlement conference for October 21, 2016, my assistant and I made arrangements for Plaintiff to participate at the settlement conference via video equipment at SDCC.

4. On or about October 5, 2016, while reviewing prison records in preparation for the upcoming settlement conference, I learned that Plaintiff had been transferred to Ely State Prison on or about September 21, 2016.

5. On October 11, 2016, I directed my assistant to cancel the SDCC video equipment reservation and also to contact Ely State Prison to determine whether arrangements could be made for Plaintiff to participate by video at the October 21 settlement conference. After making these inquiries, I learned that Ely State Prison will be conducting inmate tele-medicine appointments the morning of October 21 and therefore will be unable to make Plaintiff available by video at the time scheduled for the settlement conference. However, Ely State Prison has no video equipment conflicts for the afternoon of October 21.

6. On October 11, 2016, I confirmed that all members of the defense team are available to participate in the settlement conference during the afternoon of October 21.

Pursuant to 28 U.S.C. section 1746 Declarant certifies, under penalty of perjury, that the foregoing is true and correct.

DATED this 12th day of October, 2016.

ADAM PAUL LAXALT
Attorney General

By: /s/ Jared M. Frost
JARED M. FROST (Bar No. 11132)
Senior Deputy Attorney General
FRANK A. TODDRE II (Bar No. 11474)
Deputy Attorney General

Attorneys for Defendants